

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
Baltimore Division**

IN RE:

DORENE V. SEWELL
CHARLES H. SEWELL

Debtor(s)

* Case No.: 04-34798-DK
* Chapter 13
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*

TRUSTEE'S MOTION TO MODIFY CHAPTER 13 PLAN

Gerard R. Vetter, Chapter 13 Trustee (the "Trustee") in the above-captioned case, pursuant to Section 1329 of the Bankruptcy Code and Bankruptcy Rule 3015(g), requests the Court to modify the Chapter 13 Plan that has been confirmed in this case. In support of his request, the Trustee respectfully represents the following:

1. The Debtors commenced this case under Chapter 13 on November 1, 2004. The Debtors first filed a Chapter 13 Plan (the "Plan") on November 10, 2004. The Plan, as amended by interlineation on February 1, 2005, which was confirmed by this Court on February 8, 2005, submits to the Trustee for the execution of the Plan the Debtors' future earnings in the monthly amount of \$120.00 for a period of 60 months, for a total gross funding of \$7,200.00.

2. The Plan as filed on November 10, 2004 and amended on February 1, 2005, provided to pay pre-petition arrears to Select Portfolio in the amount of \$2,866.00.

3. On February 3, 2005, Select Portfolio Servicing, Inc. filed the proof of claim asserting pre-petition arrears in the amount of \$7,889.98.

4. The Plan was recommended for confirmation by the Trustee with funding sufficient to pay the scheduled pre-petition arrears in the amount of \$2,866.00.

5. On July 29, 2009, the Trustee's staff discovered that the filed proof of claim asserting pre-petition arrears in the amount of \$7,889.98 had not been received by the Trustee prior to recommending confirmation and that there is not sufficient funding to pay the pre-petition arrears in the amount of \$7,889.98.

6. According to the Trustee's records, the balance due to Select Portfolio Servicing, Inc. plus the Trustee's applicable percentage fee, after crediting payments received from the Debtors and distributions made by the Trustee, is \$2,331.62.

7. The allowed unsecured claims filed in this case total \$18,017.39. According to the Trustee's records, no payments have been made on these claims and, if this Motion to Modify is granted, there will not be sufficient funding to make any payments on the allowed unsecured claims.

8. The Trustee requests that the Chapter 13 Plan Base be modified to \$9,531.62 to include the amount necessary to pay the balance due to Select Portfolio Servicing, Inc. plus the Trustee's applicable percentage fee, \$2,331.62.

9. The Trustee requests that the Plan payment be increased from \$120.00 to \$583.00 for the remaining four months of the 60 month term.

WHEREFORE, the Trustee prays that the Court modify the Plan as set forth above.

July 29, 2009
Date

s/ Gerard R. Vetter
Gerard R. Vetter
Chapter 13 Trustee
100 S. Charles Street, Suite 501
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PLEASE TAKE NOTICE that parties in interest have the right to object to the requested modification within twenty (20) days of the date of service of this motion.

CERTIFICATE OF SERVICE

I hereby certify that on July 29, 2009, to the extent that the following persons were not served electronically via the CM/ECF system, I caused a copy of the pleading above referenced to be sent, by First Class U.S. Mail, postage prepaid to:

Dorene V. Sewell
Charles H. Sewell
10345 Bunting Road
Chestertown, MD 21620
Debtors

Jeffrey M. Sirody, Esquire
Sirody, Freiman & Feldman
1777 Reisterstown Road
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Baltimore, MD 21208

/s/ Gerard R. Vetter
Gerard R. Vetter